

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1158
94TH GENERAL ASSEMBLY

Reported from the Committee on Education, April 3, 2008, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4822S.05C

AN ACT

To repeal section 295.070, RSMo, and to enact in lieu thereof twenty new sections relating to professional relationships between teachers and school districts, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 295.070, RSMo, is repealed and twenty new sections enacted in lieu thereof, to be known as sections 160.1000, 160.1003, 160.1006, 160.1009, 160.1012, 160.1015, 160.1018, 160.1021, 160.1024, 160.1027, 160.1030, 160.1033, 160.1036, 160.1039, 160.1042, 160.1045, 160.1048, 160.1051, 160.1054, and 295.070, to read as follows:

160.1000. 1. Sections 160.1000 to 160.1054 shall be known and may be cited as the "Professional Relationships Between Teachers and School Districts Act". Nothing in sections 160.1000 to 160.1054 shall be construed to permit any public school employee to engage in or support a strike, nor to prohibit any public school employee from joining or participating in any employee organization.

2. Sections 160.1000 to 160.1054 shall supersede sections 105.500 to 105.530, RSMo, to the extent it applies to public school employees, as defined in section 160.1003. Sections 160.1000 to 160.1054 shall not supersede provisions of this chapter, chapters 161 to 186, RSMo, chapter 295, RSMo, and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with sections 160.1000 to 160.1054 or with lawful collective agreements

17 negotiated under sections 160.1000 to 160.1054.

160.1003. As used in sections 160.1000 to 160.1054, the following
2 words and phrases shall mean:

3 (1) "Commission", the board of mediation created in chapter 295,
4 RSMo;

5 (2) "Confidential employee", any employee who, in the regular
6 course of his or her duties, has access to or possesses information
7 relating to his or her employer's employer-employee relations;

8 (3) "Employee organization", any organization, agency,
9 association, union, committee, council, or group of any kind, except an
10 employee representation council, that includes employees of a public
11 school employer and which has as one of its primary purposes
12 representing those employees in their relations with that public school
13 employer. "Employee organization" shall also include any person such
14 an organization authorizes to act on its behalf;

15 (4) "Employee representation council" or "council", the council of
16 employee organizations established for an appropriate unit as
17 described in section 160.1045 to meet and negotiate with the employer
18 over terms and conditions of employment. "Employee representation
19 council" shall also include any person such council authorizes to act on
20 its behalf. All members of the employee representation council shall be
21 certified employees of the school districts for which they are meeting
22 and negotiating;

23 (5) "Good faith", using best endeavors to enter into an
24 arrangement to set out a process for conducting the negotiating in an
25 effective manner, considering and responding to proposals made by
26 each party to the other, and not acting to undermine the negotiating
27 process. It also requires cooperation in the negotiating process by
28 scheduling and attending meetings at a reasonable time, listening and
29 considering proposals made by the other side, and trying to resolve
30 differences in an acceptable way;

31 (6) "Lockout", an action by a public school employer to provoke
32 interruptions of or prevent the continuity of work normally and usually
33 performed by school district employees for the purpose of coercing
34 such employees, employee organizations, or the employee
35 representation council that represents them into accepting the
36 employer's terms of settlement of a labor dispute, or otherwise

37 relinquishing rights guaranteed by sections 160.1000 to 160.1054;

38 (7) "Management employee", any employee in a position having
39 significant responsibilities for formulating district policies or
40 administering district programs, including any person who is employed
41 in an administrative capacity and who is fulfilling duties for which an
42 administrator's certificate is required under section 168.081,
43 RSMo. Management positions shall be designated by the public school
44 employer;

45 (8) "Meeting and negotiating", meeting, conferring, negotiating,
46 and discussing between the employee representation council and the
47 public school employer in a good faith effort to reach an agreement on
48 matters within the scope of representation and the execution of a
49 written document incorporating any agreements reached, which
50 document shall, when accepted by the council and the public school
51 employer, become binding upon all parties. The agreement may be for
52 a period of up to, but not to exceed three years;

53 (9) "Public school employee" or "employee", any person holding
54 a valid teaching certificate employed by any public school employer,
55 except persons elected by popular vote, persons appointed by the
56 governor of this state, management employees, supervisory employees,
57 and confidential employees;

58 (10) "Public school employer" or "employer", the governing board
59 of a public school district or a school district itself, including a common
60 or seven-director school district, a metropolitan or urban school
61 district, a county board of education, a county superintendent of
62 schools, a special school district or cooperative, a community or junior
63 college district, or a special administrative board established by the
64 state board of education. "Public school employer" shall also include
65 any person such an employer authorizes to act on its behalf;

66 (11) "Strike", the concerted failure to report for duty, the willful
67 absence from one's position, the stoppage of work, or the abstinence in
68 whole or in part from the full, faithful, and proper performance of the
69 duties of employment for the purpose of inducing, influencing, or
70 coercing a change in employment conditions, compensation, or the
71 rights, privileges, or obligations of employment, or to protest or
72 respond to an act alleged or determined to be a violation of sections
73 160.1000 to 160.1054 committed by the public school employer;

74 (12) "Supervisory employee", any employee, regardless of job
75 description, having authority in the interest of the employer to hire,
76 transfer, suspend, lay off, recall, promote, discharge, or discipline other
77 employees, or the responsibility to assign work to and direct them, or
78 to adjust their grievances, or effectively recommend such action, if, in
79 connection with the foregoing functions, the exercise of that authority
80 is not of a merely routine or clerical nature, but requires the use of
81 independent judgment.

 160.1006. In addition to other authority granted, the commission,
2 when dealing with public schools, shall also have the following
3 authority:

4 (1) To participate in any case pending before the commission;

5 (2) Within its discretion, to conduct studies relating to employer-
6 employee relations, including the collection, analysis, and making
7 available of data relating to wages, benefits, and employment practices
8 in public and private employment;

9 (3) To develop and maintain research and training programs,
10 either through use of commission staff or by entering into contracts
11 with independent contractors, to assist public school employers,
12 employee representation councils, and employee organizations in the
13 discharge of their responsibilities under sections 160.1000 to 160.1054;

14 (4) To adopt rules and regulations to carry out the provisions
15 and effectuate the purposes and policies of sections 160.1000 to
16 160.1054;

17 (5) To hold hearings, subpoena witnesses, administer oaths, take
18 the testimony or deposition of any person, and, in connection
19 therewith, to issue subpoenas duces tecum to require the production
20 and examination of any employer, employee representation council, or
21 employee organization records, books, or papers relating to any matter
22 within its jurisdiction, provided that such information shall remain
23 confidential and not be disclosed by the commission;

24 (6) To investigate violations or alleged violations of sections
25 160.1000 to 160.1054, and take any action and make any determinations
26 in respect of these charges or alleged violations as the commission
27 deems necessary to effectuate the policies of sections 160.1000 to
28 160.1054;

29 (7) To bring an action in a court of competent jurisdiction to

30 enforce any of its orders, decisions, or rulings, or to enforce the refusal
31 to obey a subpoena. Upon issuance of a complaint charging that any
32 person or party has engaged in or is engaging in a violation of sections
33 160.1000 to 160.1054, the commission may petition the court for
34 appropriate temporary relief or restraining order;

35 (8) To delegate its powers to any member of the commission or
36 to any person appointed by the commission for the performance of its
37 functions, except that no fewer than three commission members may
38 participate in the determination of any ruling or decision on the merits
39 of any dispute coming before it, and except that a decision to refuse to
40 issue a complaint shall require the approval of at least three
41 commission members;

42 (9) To take any other action as the commission deems necessary
43 to discharge its authority and duties and otherwise to effectuate the
44 purposes of sections 160.1000 to 160.1054.

160.1009. 1. A person commits the crime of interfering with the
2 state board of mediation if he or she purposely resists, prevents,
3 impedes, or interferes with any member of the state board of mediation,
4 or any of their agents in the performance of their duties under sections
5 160.1000 to 160.1054.

6 2. The crime of interfering with the state board of mediation is
7 a class A misdemeanor.

160.1012. 1. The initial determination as to whether there are
2 violations of sections 160.1000 to 160.1054 that are justified, and if so,
3 what remedy is necessary to effectuate the purposes of sections
4 160.1000 to 160.1054, shall be a matter within the exclusive jurisdiction
5 of the commission. Procedures for investigating, hearing, and deciding
6 such cases shall be devised and promulgated by the commission.

7 2. Any employee, employee organization, employee
8 representation council, or employer shall have the right to file a charge
9 of a violation of sections 160.1000 to 160.1054, except that the
10 commission shall not do the following:

11 (1) Issue a complaint with respect of any charge based upon an
12 alleged violation of sections 160.1000 to 160.1054 occurring more than
13 six months prior to the filing of the charge;

14 (2) Issue a complaint against conduct also prohibited by the
15 provisions of a negotiated agreement until the grievance machinery of

16 the agreement, if it exists and covers the matter at issue, has been
17 exhausted. However, when the charging party demonstrates that resort
18 to a contractual grievance procedure would be futile, exhaustion shall
19 not be necessary. The commission shall have discretionary jurisdiction
20 to review the settlement award reached under the grievance machinery
21 solely for the purpose of determining whether it is repugnant to the
22 purposes of sections 160.1000 to 160.1054. If the commission finds that
23 the settlement is repugnant to the purposes of sections 160.1000 to
24 160.1054, it shall issue a complaint on the basis of a timely filed charge,
25 and hear and decide the case on the merits. Otherwise, it shall dismiss
26 the charge. The commission shall, in determining whether the charge
27 was timely filed, consider the six-month limitation set forth in this
28 subsection to have been tolled during the time it took the charging
29 party to exhaust the grievance machinery.

30 3. The commission shall not have the authority to enforce
31 agreements between the parties, and shall not issue a complaint on any
32 charge based on alleged violations of any agreement that would not
33 also constitute a violation of sections 160.1000 to 160.1054.

34 4. The commission shall have the power to issue a decision and
35 order directing an offending party to cease and desist from violating
36 sections 160.1000 to 160.1054 and to take such affirmative action,
37 including but not limited to, the reinstatement of employees with or
38 without back pay, as will effectuate the policies of sections 160.1000 to
39 160.1054.

40 5. (1) Any charging party, respondent, or intervener aggrieved
41 by the final decision or order of the commission in a case of a violation
42 of sections 160.1000 to 160.1054, except a decision of the commission not
43 to issue a complaint in such a case, may petition for judicial review of
44 such decision or order.

45 (2) Such petition shall be filed in the circuit court of the county
46 where the school district is located. The petition shall be filed within
47 thirty days after issuance of the commission's final order, order
48 denying reconsideration, or order joining in the request for judicial
49 review, as applicable. Upon the filing of such petition, the court shall
50 cause notice to be served upon the commission and thereupon shall
51 have jurisdiction of the proceeding. The commission shall file in the
52 court the record of the proceeding, certified by the commission, within

53 ten days after the clerk's notice unless such time is extended by the
54 court for good cause shown. The court shall have jurisdiction to grant
55 to the commission such temporary relief or restraining order it deems
56 just and proper and in like manner to make and enter a decree
57 enforcing, modifying, or setting aside the order of the commission. The
58 findings of the commission with respect to questions of fact, including
59 ultimate facts, if supported by competent and substantial evidence on
60 the record considered as a whole, shall be conclusive.

61 (3) If the time to petition for extraordinary relief from a
62 commission decision has expired, the commission shall seek
63 enforcement of any final decision or order in a circuit court in the
64 school district where the violation case occurred. The commission shall
65 respond within ten days to any inquiry from a party to the action as to
66 why the commission has not sought court enforcement of the final
67 decision or order. If the response does not indicate that there has been
68 compliance with the commission's final decision or order, the
69 commission shall seek enforcement of the final decision or order upon
70 the request of the party. The commission shall file in the court the
71 record of the proceeding, certified by the commission, and appropriate
72 evidence disclosing the failure to comply with the decision or order. If,
73 after a hearing, the court determines that the order was issued under
74 procedures established by the commission and that the person or entity
75 refuses to comply with the order, the court shall enforce such order by
76 writ of mandamus. The court shall not review the merits of the order.

160.1015. 1. Public school employees shall have the right to form,
2 join, and participate in the activities of any organization, agency,
3 association, committee, union, or employee representation council for
4 the purpose of representation on all matters of employer-employee
5 relations under sections 160.1000 to 160.1054. Public school employees
6 shall also have the right to refrain from any or all of such activities.

7 2. Any employee may at any time present grievances to his or her
8 employer without the intervention of an employee representation
9 council or employee organization.

10 3. Nothing in sections 160.1000 to 160.1054 shall be construed to
11 limit, impair, or affect the right of a public school employee to the
12 expression or communication of a view, grievance, complaint, or
13 opinion on any matter related to the conditions or compensation of

14 public school employment or their betterment as long as the expression
15 or communication does not interfere with the full, faithful, and proper
16 performance of the duties of employment.

160.1018. 1. Employee organizations shall have the right to
2 represent their members in their professional and employment
3 relations with public school employers. Employee organizations may
4 establish reasonable restrictions regarding who may join and may make
5 reasonable provisions for the dismissal of individuals from
6 membership.

7 2. Employee organizations shall have access to use institutional
8 facilities at reasonable times for the purpose of meetings concerning
9 the exercise of rights guaranteed by sections 160.1000 to 160.1054.

10 3. All employee organizations shall have the right to have
11 membership dues deducted under section 168.300, RSMo. In addition,
12 any school district that grants payroll deduction for membership dues
13 for one employee organization shall allow all employee organizations
14 the opportunity to have membership dues deducted. The right to have
15 dues deducted can be removed under subsection 2 of section 160.1042.

160.1021. 1. Employee representation councils shall have the
2 right to represent employees in their appropriate unit in a school
3 district in their professional and employment relations with public
4 school employers.

5 2. Employee representation councils shall be allowed to
6 communicate with members of the employee unit, subject to reasonable
7 regulation, and the right to use institutional facilities at reasonable
8 times for the purpose of meetings concerned with the exercise of the
9 rights guaranteed by sections 160.1000 to 160.1054.

160.1024. A person serving in a management position,
2 supervisory position, or a confidential position may represent himself
3 or herself individually in his or her employment relationship with the
4 public school employer. An employee representation council shall not
5 be permitted by a public school employer to meet and negotiate on any
6 benefit or compensation paid to persons serving in a management
7 position, supervisory position, or a confidential position.

160.1027. 1. It shall be a violation of sections 160.1000 to 160.1054
2 and unlawful for a public school employer to do any of the following:

3 (1) Impose or threaten to impose reprisals on employees, to

4 discriminate or threaten to discriminate against employees, or
5 otherwise to interfere with, restrain, or coerce employees because of
6 their exercise of rights guaranteed by sections 160.1000 to
7 160.1054. For purposes of this subdivision, "employee" shall include an
8 applicant for employment or reemployment;

9 (2) Deny rights guaranteed to employee organizations or
10 employee representation councils by sections 160.1000 to 160.1054;

11 (3) Refuse or fail to meet and negotiate in good faith with
12 employee representation councils;

13 (4) Dominate or interfere with the formation of employee
14 representation councils.

15 2. It shall be a violation of sections 160.1000 to 160.1054 and
16 unlawful for an employee organization to:

17 (1) Cause or attempt to cause a public school employer, an
18 employee representation council, or another employee organization to
19 violate any provisions of sections 160.1000 to 160.1054;

20 (2) Impose or threaten to impose reprisals on employees, to
21 discriminate or threaten to discriminate against employees, or
22 otherwise to interfere with, restrain, or coerce employees because of
23 their exercise of rights guaranteed by sections 160.1000 to 160.1054;

24 (3) Refuse or fail to cooperate in good faith with an employee or
25 another employee organization in carrying out the functions of an
26 employee representation council.

27 3. It shall be a violation of sections 160.1000 to 160.1054 and
28 unlawful for an employee representation council to:

29 (1) Cause or attempt to cause a public school employer,
30 employee, or an employee organization to violate any provisions of
31 sections 160.1000 to 160.1054;

32 (2) Impose or threaten to impose reprisals on employees, to
33 discriminate or threaten to discriminate against employees, or
34 otherwise to interfere with, restrain, or coerce employees because of
35 their exercise of rights guaranteed by sections 160.1000 to 160.1054;

36 (3) Refuse or fail to meet and negotiate in good faith with the
37 public school employer of any of the employees in the unit represented
38 by the council.

160.1030. 1. (1) The duty to meet and negotiate in good faith
2 requires the local board of education to publish and adopt a policy that

3 establishes a time line for the parties to begin negotiations prior to the
4 adoption of the final budget for the ensuing year sufficiently in
5 advance of such adoption date so that there is adequate time for
6 agreement to be reached.

7 (2) A public school employer shall, upon request, meet and
8 negotiate regarding matters within the scope of representation with
9 and only with an employee representation council that represents
10 employees in their appropriate unit. A public school employer shall
11 appoint at least one member of the board of education to participate in
12 all meetings with the employee representation council.

13 2. (1) The scope of meeting and negotiating shall be limited to
14 matters relating to wages, hours of employment, and other terms and
15 conditions of employment. "Terms and conditions of employment" mean
16 grievance procedures, insurance, fringe benefits, leave, and payroll
17 deductions. Nothing herein shall prohibit the parties from mutually
18 agreeing to discuss other terms and conditions of employment,
19 provided however, that refusal to negotiate on any other terms and
20 conditions shall not constitute bad faith.

21 (2) All matters not specifically enumerated are reserved to the
22 public school employer and may not be a subject of meeting and
23 negotiating; provided that nothing herein may be construed to limit the
24 right of the public school employer to consult with any employee,
25 employee organization or employment representation council on any
26 matter outside the scope of representation.

27 (3) Nothing herein shall authorize the diminution of any right,
28 duty or obligation of either the professional employee or the board of
29 education, which has been fixed by statute or by the constitution of this
30 state. Except as otherwise expressly provided in this subsection, the
31 fact that any matter may be the subject of a statute or the constitution
32 of this state does not preclude negotiation thereon so long as the
33 negotiation proposal would not prevent the fulfillment of the statutory
34 or constitutional objective.

160.1033. A public school employer and a majority of the
2 employee representation council shall enter into a written agreement
3 covering matters within the scope of meeting and negotiating under
4 section 160.1030. This written agreement shall be presented to the
5 employer for action at a public meeting. The school board has the

6 authority to accept, reject, or modify the agreement that has been
7 reached between the employer and the majority of the employee
8 representation council. The written agreement becomes binding when
9 approved by a majority of the members of the board of education and
10 the minutes of the meeting where action took place are approved.

160.1036. The employee representation council shall fairly
2 represent each and every employee in the appropriate unit.

160.1039. The employee representation council or any employee
2 organization shall have standing to sue in any action or proceeding
3 heretofore or hereafter instituted by it as representative and on behalf
4 of one or more of its members.

160.1042. 1. (1) No public school employee, employee
2 organization, or employee representation council shall engage in a
3 strike or cause, instigate, encourage, or condone a strike.

4 (2) No public school employer shall institute a lockout. A public
5 school employer does not violate this section if there is a total or
6 partial cessation of the public school employer's operations in response
7 to a strike held in violation of this subsection.

8 2. (1) If a public school employer alleges that there is a strike by
9 one or more public school employees in violation of subdivision (1) of
10 subsection 1 of this section, the employer shall notify the commission
11 of the full or partial days a public school employee was engaged in the
12 alleged strike.

13 (2) If an employee representation council, an employee
14 organization, or a public school employee alleges that there is a lockout
15 by a public school employer in violation of subdivision (2) of subsection
16 1 of this section, the council, association, organization, or employee
17 shall notify the commission of the full or partial days of the alleged
18 lockout.

19 (3) Within thirty days after receipt of a notice made under
20 subdivision (1) or (2) of this subsection, the commission shall conduct
21 a hearing to determine if there has been a violation and shall issue its
22 decision and order.

23 (4) If, after such hearing, the commission finds that one or more
24 public school employees engaged in a strike in violation of subdivision
25 (1) of subsection 1 of this section, the commission shall fine each public
26 school employee two hundred fifty dollars for each full or partial day

27 that he or she engaged in the strike. In addition, such employees may
28 be subject to dismissal after a hearing conducted by the board under
29 section 168.118, RSMo, and if not dismissed by the school district, they
30 shall forfeit their claim to tenure if they presently have attained
31 tenure, and the same may be demoted to probationary status for the
32 entire probationary period.

33 (5) If, after such hearing, the commission finds any employee
34 organization has supported, assisted, or facilitated a strike in violation
35 of subdivision (1) of subsection 1 of this section, such employee
36 organization shall be fined for each full or partial day that public
37 school employee or employees engaged in the strike in the amount
38 described as follows:

39 (a) One thousand dollars for a school district with an enrollment
40 of up to but not greater than three hundred fifty students;

41 (b) One thousand five hundred dollars for a school district with
42 an enrollment of at least three hundred fifty-one students but not
43 greater than one thousand students;

44 (c) Three thousand dollars for a school district with a student
45 enrollment of at least one thousand one students but not greater than
46 three thousand five hundred students;

47 (d) Five thousand dollars for a school district with a student
48 enrollment of at least three thousand five hundred one students but not
49 greater than seven thousand five hundred students;

50 (e) Seven thousand five hundred dollars for a school district with
51 a student enrollment of seven thousand five hundred one or greater
52 students.

53 Such employee organization shall be ineligible to be represented on an
54 employee representation council in the public school district where the
55 strike took place for a period of two years after the violation. In
56 addition, the public school employer shall stop making payroll
57 deductions for dues of any such employee organization for one year
58 after the violation.

59 (6) If, after such hearing, the commission finds that a public
60 school employer instituted a lockout in violation of subdivision (2) of
61 subsection 1 of this section, the commission shall fine the public school
62 employer five thousand dollars for each full or partial day of a lockout
63 and shall fine each member of the public school employer's governing

64 board and superintendent of schools two hundred fifty dollars for each
65 full or partial day of a lockout.

66 (7) If the commission imposes a fine against a public school
67 employee under subdivision (4) of this subsection and the public school
68 employee continues to be employed by a public school employer, the
69 commission shall order the public school employer to deduct the fine
70 from the public school employee's annual salary.

71 (8) The commission shall transmit money received from fines
72 imposed under this section, and a public school employer shall transmit
73 money deducted under an order under subdivisions (5) and (6) of this
74 subsection to the state treasurer for deposit in the state school moneys
75 fund.

76 (9) If the commission does not receive payment of a fine imposed
77 under this section within thirty days after the imposition of the fine,
78 or if a public school employer does not deduct a fine from a public
79 school employee's pay pursuant to an order under subdivision (6) of
80 this subsection, the commission shall institute collection proceedings.

81 (10) Fines imposed under this section are in addition to all other
82 penalties prescribed by sections 160.1000 to 160.1054 and by law.

83 (11) A public school employer may bring an action to enjoin a
84 strike by public school employees, and an employee representation
85 council or employee organization may bring an action to enjoin a
86 lockout by a public school employer in the circuit court for the county
87 in which the affected public school is located. A court having
88 jurisdiction of an action brought under this subsection shall grant
89 injunctive relief if the court finds that a strike or lockout has occurred,
90 without regard to the existence of other remedies, demonstration of
91 irreparable harm, or other factors. Failure to comply with an order of
92 the court may be punished as contempt. In addition, the court shall
93 award court costs and reasonable attorney fees to a plaintiff who
94 prevails in an action brought under this subsection.

95 (12) A public school employer shall not provide to a public school
96 employee or to a school board member any compensation or additional
97 work assignment that is intended to reimburse the public school
98 employee or school board member for a monetary penalty imposed
99 under this section.

100 (13) No penalty, forfeiture of rights or privileges, or other

101 sanction or fine imposed on an employee organization, its officers, or
102 members as the result of a strike shall be negotiable by such
103 organization and a public school employer at any time.

160.1045. 1. Notwithstanding any other provision to the contrary,
2 establishment of an employee representation council for an appropriate
3 unit shall be initiated by the filing with the local board of education a
4 request letter by an employee organization and supported by a showing
5 of interest of at least ten percent of the employees in an appropriate
6 unit. The request letter shall describe the grouping of jobs or positions
7 which constitute the unit claimed to be appropriate. Each school
8 district shall adopt and publish a policy on procedures to recognize and
9 establish an employee representation council.

10 2. Notice of any such request letter shall be conspicuously posted
11 on all employee bulletin boards in each facility of the public school
12 employer in which members of the unit claimed to be appropriate are
13 employed. The board of education shall allow at least forty-five days
14 between the date of such posting and the date the school board takes
15 action to allow other employee organizations an opportunity to file a
16 petition supported by sufficient showing of interest to join the council.

17 3. The showing of interest supporting a request letter shall be
18 based upon current dues deduction authorizations or other evidence
19 such as notarized membership lists and shall be dated not more than
20 six months prior to filing of the request letter. Such proof of support
21 shall be submitted directly to the board or its designee, and the
22 information submitted shall remain confidential and not be disclosed
23 by the board or its designee. The board shall carry out its
24 responsibilities under this section and shall report in writing within
25 seven days of a decision by the local board of education to the
26 employee organization as to whether the proof of support is adequate,
27 and if not adequate, it shall state the reasons why it is inadequate. Any
28 employee organization may appeal the decision by the board to the
29 commission who shall establish procedures for hearing such appeal.

30 4. If a local board of education receives request letters and
31 showing of interest documents that are similar from more than one
32 employee organization, any employee that has their name appearing on
33 both membership lists or supporting documentations shall have their
34 name stricken from both organizations' documentations for the purpose

35 of verifying a showing of interest.

36 5. Any board of education that does not receive a request letter
37 or the board of education determines there is not a showing of interest
38 by at least ten percent of any employee organization shall not be
39 subject to the provisions of sections 160.1000 to 160.1054.

40 6. If there is only one employee organization that establishes a
41 showing of interest of at least ten percent, the local board of education
42 shall determine in policy the size of the council.

160.1048. 1. (1) Any employee organization that can establish a
2 showing of interest of at least ten percent of the employees in the
3 appropriate unit shall be entitled to have at least one representative on
4 the employee representation council. Additional representatives of an
5 employee organization to the council shall be proportional based on a
6 percentage of membership for each organization that established a
7 showing of interest.

8 (2) If only one employee organization establishes a showing of
9 interest of at least ten percent, the local board of education shall
10 determine in policy the size of the council. After the first year of
11 meeting and negotiating with the employee representation council in
12 a school district that has more than ten different buildings where
13 employees of a represented unit are located, the board of education
14 may establish a larger council, as long as representation on the council
15 remains proportional to the size of the different member organizations
16 that have established a showing of interest.

17 (3) The showing of interest shall be determined in accordance
18 with section 160.1045. This showing of interest shall be renewed
19 annually, and membership on the council shall be adjusted accordingly.

20 (4) The employee organization shall submit the showing of
21 interest to the board, or its designee, and the information submitted
22 shall remain confidential and not be disclosed by the board or designee.

23 2. The members of the employee representation council shall
24 establish and revise as necessary, appropriate operating procedures to
25 allow the council to function in a cooperative and efficient manner,
26 including:

27 (1) Developing a protocol for cooperation between and among all
28 employee organizations, which comprise the council, that will allow
29 them to act together on behalf of all employees in the appropriate unit,

30 and that will enable the council to secure and maintain stable and
31 effective arrangements;

32 (2) Establishing organizational structures that will enable the
33 council to better perform its function;

34 (3) Establishing a procedure for communication between the
35 employer and the council, and among council members, including the
36 sharing of information with all unit members as well as with the
37 council's constituent employee organizations;

38 (4) Determining the venue, frequency and duration of meetings
39 of the council;

40 (5) Establishing the duration for all operating procedures, and
41 a process for review and revision.

42 In establishing and revising such operating procedures, all
43 organizations comprising the employee representation council shall act
44 in a spirit of cooperation with a view to reaching an agreement within
45 a reasonable time so as not to interfere with the ability of the council
46 to fulfill its statutory functions. If no such initial agreement is reached
47 following the establishment of the council and the beginning of meeting
48 and negotiating with the employer, the board of education shall provide
49 a prototype of operating procedures for the parties to follow. Meetings
50 between the employee representation council and the district shall not
51 be subject to the provisions of chapter 610, RSMo.

160.1051. All matters within the scope of meeting and negotiating
2 that are agreed to by a simple majority of employee representation
3 councils and the employers shall be reduced to writing. Included in
4 this document are items where agreement could not be reached. Each
5 member of an employee representation council shall be allowed the
6 opportunity for a ratification vote of their members prior to signing off
7 on an agreement that has been reached. Once a majority of the
8 members of an employee representation council sign the agreement, the
9 agreement shall be sent to the board of education for action at the next
10 board of education meeting. Should a board of education not accept an
11 agreement that has been agreed to by the employee representation
12 council, that agreement shall be sent back to the negotiating team for
13 further negotiating. At such time, a board of education may enter into
14 impasse procedures or arbitration that might be allowed as stated in
15 the school district's adopted policies. Once an agreement reaches the

16 board of education for a second time, the board of education may
17 accept, reject, or modify the agreement. Once the written agreement
18 is acted upon by the board of education and the minutes of the meeting
19 where the board of education took action on the agreement are
20 approved, the agreement becomes binding. Discussion of the written
21 document by the board of education shall be done in an open
22 meeting. Nothing in sections 160.1000 to 160.1054 shall absolve a board
23 of education from following the provisions of chapter 610, RSMo.

160.1054. The commission shall promulgate rules to implement
2 the provisions of sections 160.1000 to 160.1054. Any rule or portion of
3 a rule, as that term is defined in section 536.010, RSMo, that is created
4 under the authority delegated in this section shall become effective
5 only if it complies with and is subject to all of the provisions of chapter
6 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
7 chapter 536, RSMo, are nonseverable and if any of the powers vested
8 with the general assembly under chapter 536, RSMo, to review, to delay
9 the effective date, or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and any
11 rule proposed or adopted after August 28, 2008, shall be invalid and
12 void.

295.070. 1. The state board of mediation shall have power to employ and
2 fix the compensation of conciliators and other assistants and to delegate to such
3 assistants such powers as may be necessary to carry out its duties under this
4 chapter and sections 160.1000 to 160.1054, RSMo. The board shall by
5 regulation prescribe the methods of procedure before it.

6 2. The board shall have power to issue subpoenas requiring the
7 attendance and testimony of witnesses and the production of evidence which
8 relates to any matter under investigation by the board. In cases of refusal to
9 obey a subpoena issued by the board the circuit court of Cole County or of any
10 county where the person refusing to obey such subpoena may be found, on
11 application by the board, shall have power to issue an order requiring such
12 person to appear before the board and to testify and produce evidence ordered
13 touching the matter under investigation, and any failure to obey such order shall
14 be punished by the court as a contempt thereof.